

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
(R060-10)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 449 of the Nevada Administrative Code (NAC). This public hearing is to be held in conjunction with the State Board of Health meeting on August 13, 2010. The NAC 449 regulation changes will be heard in the order placed on the State Board of Health agenda.

The proposed changes to NAC 449 for fees will revise the fee schedule for licensed facilities.

The State Board of Health hearing is scheduled to begin at 9:00 a.m. on Friday, August 13, 2010, at the following locations:

Videoconference to:
Legislative Building
401 S. Carson Street
Room #2134
Carson City, Nevada

Board Attending:
Grant Sawyer Building
555 E. Washington Avenue
Room #4412
Las Vegas, Nevada

1. Anticipated effects on the business which NAC 449 regulates:
 - A. Adverse: higher costs for obtaining and retaining a license to operate a health care facility in Nevada.
 - B. Beneficial: the increased fees will allow the regulatory agency to be timely in its inspections and investigations and minimize the effect of unsafe conditions.
 - C. Immediate: higher costs for obtaining and retaining a license to operate a health care facility in Nevada.
 - D. Long-term: the increased fees will allow the regulatory agency to be timely in its inspections and investigations.
2. Anticipated effects on the public:
 - A. Adverse: none
 - B. Beneficial: the new fees will allow the regulatory agency to be timely in its inspections and investigations and minimize the effect of unsafe conditions.
 - C. Immediate: none
 - D. Long-term: the new fees will allow the regulatory agency to be timely in its inspections and investigations and minimize the effect of unsafe conditions.
3. Estimated cost to the Health Division for enforcement of the proposed regulation: \$0

The amendments do establish new fees and increase existing fees.

The proposed regulations do not overlap or duplicate any other Nevada State Regulations.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Richard Whitley, to be received no later than August 1, 2010, at the following address:

Secretary, State Board of Health
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, Nevada 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Nevada State Health Division
Bureau of Health Care Quality & Compliance
1550 College Pkwy., Suite 158
Carson City, Nevada 89706

Nevada State Library
100 Stewart Street
Carson City, NV 89701

Copies may be obtained in person, by mail, or by calling the Bureau of Health Care Quality and Compliance at (775) 687-4475. Copies are also available for review at all physical locations of program offices or main public libraries in each county where no agency office exists.

AGENDA POSTING LOCATIONS

NEVADA STATE HEALTH DIVISION – 4150 Technology Way, Carson City
SOUTHERN NEVADA HEALTH DISTRICT – 625 Shadow Lane, Las Vegas
WASHOE COUNTY HEALTH DISTRICT – 1001 E. 9TH Street, Reno
GRANT SAWYER BUILDING – 555 E. Washington Ave., Las Vegas
LEGISLATIVE BUILDING – 401 S. Carson Street, Carson City
BUREAU OF EARLY INTERVENTION SERVICES—1020 Ruby Vista Drive, Elko
On the Internet at the Nevada State Health Division website: www.health.nv.gov

Copies may also be obtained from any of the public libraries listed below:

(Carson City Library)
(900 North Roop Street)
(Carson City, NV 89702)

(Storey County Public Library)
(95 South R Street)
(Virginia City, NV 89440)

(Churchill County Library)
(553 South Maine Street)
(Fallon, NV 89406)

(Humboldt County Library)
(85 East Fifth Street)
(Winnemucca, NV 89445-3095)

(Clark County District Library)
(833 Las Vegas Boulevard North)
(Las Vegas, NV 89101)

(Lander County Library)
(625 South Broad Street)
(Battle Mountain, NV 89820-0141)

(Tonopah Public Library)
(167 Central Street)
(Tonopah, NV 89049)

(Lincoln County Library)
(63 Main Street)
(Pioche, NV 89043-0330)

(Douglas County Library)
(1625 Library Lane)
(Minden, NV 89423-0337)

(Lyon County Library)
(20 Nevin Way)
(Yerington, NV 89447-2399)

(Elko County Library)
(720 Court Street)
(Elko, NV 89801-3397)

(Mineral County Library)
(110 1st Street)
(Hawthorne, NV 89415-1390)

(Esmeralda County Library)
(Corner of Crook & Fourth Street)
(Goldfield, NV 89013-0484)

(White Pine County Library)
(950 Campton Street)
(Ely, NV 89301)

(Pershing County Library)
(1125 Central Ave.)
(Lovelock, NV 89419-0781)

(Washoe County Library)
(301 South Center Street)
(Reno, NV 89501)

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Members of the public who are disabled and require special accommodations or assistance at the meeting are required to notify the Bureau of Health Care Quality and Compliance, 1550 College Parkway, Carson City, Nevada, 89706, phone (775) 687-4475, at least 24 hours prior to the date of the workshop.

Anyone who wants to be on the mailing list must submit a written request every six months to the Nevada State Health Division at the address listed in the previous paragraph.

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R060-10

July 8, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 5-8 and 10-15, NRS 449.037; §2, NRS 439.150, 439.200, 449.0305, 449.037, 449.038 and 449.050; §3, NRS 439.150, 439.200, 449.037, 449.050 and 449.249; §4, NRS 449.0305, 449.037 and 449.050; §9, NRS 439.150, 439.200 and 449.037.

A REGULATION relating to public health; requiring each institution of the Department of Corrections to pay certain fees to the Health Division of the Department of Health and Human Services under certain circumstances; revising certain fees for licensure; revising provisions regarding resurvey of residential facilities; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:

1. To the extent that money is appropriated for this purpose, each institution of the Department of Corrections shall pay a fee of \$3,266 each year to the Health Division for the purpose of enabling the Health Division to carry out its duties set forth in NRS 209.382, 444.330 and 446.885.

2. As used in this section, "institution" has the meaning ascribed to it in NRS 209.071.

Sec. 2. NAC 449.013 is hereby amended to read as follows:

449.013 1. Except as otherwise provided in ~~{subsection 4 and}~~ NAC 449.0168, an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the Health Division the following nonrefundable fees:

(a) An ambulatory surgical center.....	[\$3,570] \$10,320
(b) [A facility for the treatment of irreversible renal disease.....	2,748
—(e)] A home office or subunit agency of a home health agency	[3,034] 6,584
[(d)] (c) A branch office of a home health agency.....	[2,000] 5,358
[(e)] (d) A rural clinic.....	[2,160] 4,152
[(f)] (e) An obstetric center	1,564
[(g)] (f) A program of hospice care.....	[2,106] 7,088
[(h)] (g) An independent center for emergency medical care	[2,950] 4,060
[(i)] (h) A nursing pool	[4,272] 4,602
[(j)] (i) A facility for treatment with narcotics	[2,482] 5,046
[(k)] (j) A medication unit.....	1,200
[(l)] (k) A referral agency.....	[2,000] 2,708
[(m)] A halfway house for recovering alcohol and drug abusers.....	2,020
—(n)] (l) A facility for refractive surgery.....	[7,556] 6,700
[(o)] (m) A mobile unit	2,090
[(p)] A facility for transitional living for released offenders.....	2,020
—(q)] (n) An agency to provide personal care services in the home	[1374] 6,476

2. ~~[Except as otherwise provided in subsection 4, an]~~ **An** applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

(a) An ambulatory surgical center	[\$1,785] \$5,160
(b) [A facility for the treatment of irreversible renal disease	1,374
—(e)] A home office or subunit agency of a home health agency	[1,517] 3,292

{(d)} (c) A branch office of a home health agency	{1,000} 2,679
{(e)} (d) A rural clinic	{1,080} 2,076
{(f)} (e) An obstetric center	782
{(g)} (f) A program of hospice care	{1,053} 3,544
{(h)} (g) An independent center for emergency medical care	{1,475} 2,030
{(i)} (h) A nursing pool	{2,136} 2,301
{(j)} (i) A facility for treatment with narcotics	{1,241} 2,523
{(k)} (j) A medication unit	600
{(l)} (k) A referral agency	{1,000} 1,354
{(m)} A halfway house for recovering alcohol and drug abusers	1,010
—(n)} (l) A facility for refractive surgery	{3,912} 3,350
{(o)} (m) A mobile unit	1,045
{(p)} A facility for transitional living for released offenders	1,010
—(q)} (n) An agency to provide personal care services in the home	{687} 3,238

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

4. ~~{Pursuant to NRS 449.050, if an application for a license to operate a facility for transitional living for released offenders or the renewal of such a license is denied, any amount of a fee paid pursuant to paragraph (p) of subsection 1 or paragraph (p) of subsection 2 that exceeds the expenses and costs incurred by the Health Division must be refunded to the~~

~~applicant.}~~ *The Health Division may charge and collect a fee from any licensee who is involved in a complaint submitted to the Health Division by a consumer to recover the costs of investigating the complaint after the investigation is completed and the complaint is substantiated. The fee will be based upon the hourly rate established for each surveyor of health facilities as determined by the budget of the Health Division.*

5. *As used in this section, "substantiated" means supported or established by evidence or proof.*

Sec. 3. NAC 449.016 is hereby amended to read as follows:

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	[\$2,200] \$2,400	[\$60] \$90
(b) A hospital, other than a rural hospital	[10,000] 14,606	[60] 110
(c) A rural hospital	[1,500] 9,530	[60] 62
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	[1,564] 1,782	[184] 236

	Fee per facility	Fee per bed in the facility
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities	{1,200} 946	{90} 72
(f) {Except as otherwise provided in subsection 3, a} A residential facility for groups.....	{2,400} 2,386	184
(g) A facility for the treatment of abuse of alcohol or drugs.....	782	{184} 190
(h) A facility for hospice care	{1,564} 3,988	{184} 352
(i) A home for individual residential care.....	{1,764} 3,198	{184} 266
(j) A facility for modified medical detoxification.....	{782} 9,960	{184} 494
(k) A community triage center	{782} 782	{184} 136
<i>(l) A facility for the treatment of irreversible renal disease.....</i>	<i>4,178</i>	<i>120</i>
<i>(m) A halfway house for recovering alcohol and drug abusers.....</i>	<i>2,800</i>	<i>368</i>
<i>(n) A facility for transitional living for released offenders.....</i>	<i>3,990</i>	<i>146</i>

2. An applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	{ \$1,100 } \$1,200	{ \$30 } \$45
(b) A hospital, other than a rural hospital	{ 5,000 } 7,303	{ 30 } 55
(c) A rural hospital	{ 750 } 4,765	{ 30 } 31
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	{ 782 } 891	{ 92 } 118
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	{ 600 } 473	{ 40 } 36
(f) { Except as otherwise provided in subsection 4, a } A residential facility for groups { which has 11 beds or more..... } 1,182	1,193	92
{ (g) Except as otherwise provided in subsection 5, a } residential facility for groups which has less than 11 beds.....	1,085	92
{ (h) } (g) A facility for the treatment of abuse of alcohol or drugs.....	391	{ 92 } 95
{ (i) } (h) A facility for hospice care.....	{ 782 } 1,994	{ 92 } 176
{ (j) } (i) A home for individual residential care.....	{ 500 } 1,599	{ 92 } 133
{ (k) } (j) A facility for modified medical detoxification	{ 391 } 4,980	{ 92 } 247
{ (l) } (k) A community triage center.....	391	{ 92 }

	Fee per facility	bed in the facility
<i>(l) A facility for the treatment of irreversible renal disease.....</i>	<i>2,089</i>	<i>60</i>
<i>(m) A halfway house for recovering alcohol and drug abusers.....</i>	<i>1,400</i>	<i>184</i>
<i>(n) A facility for transitional living for released offenders.....</i>	<i>1,995</i>	<i>73</i>

3. ~~{An applicant for a license for a residential facility for groups shall pay a fee of \$100 for each bed in the facility which is paid entirely with money from:~~

- ~~—(a) The Supplemental Security Income Program as defined in NRS 422.053;~~
- ~~—(b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or~~
- ~~—(c) A program for group care of adults established by a county.~~

~~4. An applicant for the renewal of a license for a residential facility for groups shall pay a fee of \$35 for each bed in the facility which is paid entirely with money from:~~

- ~~—(a) The Supplemental Security Income Program as defined in NRS 422.053;~~
- ~~—(b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or~~
- ~~—(c) A program for group care of adults established by a county.~~

~~5. An applicant for the renewal of a license for a residential facility for groups which has less than 11 beds who attests that, during the following licensure period, at least 75 percent of~~

~~those beds will be paid for entirely with money from the sources described in subsection 4 shall pay a fee of \$500 plus:~~

~~—(a) For each bed that will be paid for entirely with money from the sources described in subsection 4, a fee of \$35 in accordance with that subsection; and~~

~~—(b) For each remaining bed, a fee of \$92.~~

~~—6.]~~ An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

4. Pursuant to NRS 449.050, if an application for a license to operate a facility for transitional living for released offenders or the renewal of such a license is denied, any amount of a fee paid pursuant to paragraph (n) of subsection 1 or paragraph (n) of subsection 2 that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

5. The Health Division may charge and collect a fee from any licensee who is involved in a complaint submitted to the Health Division by a consumer to recover the costs of investigating the complaint after the investigation is completed and the complaint is substantiated. The fee will be based upon the hourly rate established for each surveyor of health facilities as determined by the budget of the Health Division.

6. As used in this section, “substantiated” means supported or established by evidence or proof.

Sec. 4. NAC 449.0168 is hereby amended to read as follows:

449.0168 1. Except as otherwise provided in subsection 2, a holder of a license to operate a medical facility, facility for the dependent, program of hospice care or referral agency who wishes or is required pursuant to NAC 449.190, 449.307, 449.7473 or 449.758 to modify his license to reflect:

- (a) A change in the name of the facility, program or agency;
 - (b) A change of the administrator of the facility, program or agency;
 - (c) A change in the number of beds in the facility;
 - (d) A change in the type of facility licensed or the addition of another type of facility to be licensed;
 - (e) A change in the category of residents who may reside at the facility;
 - (f) A change in the designation of a staging area for a mobile unit or, if the mobile unit is operated by an independent facility, a change in the address of the independent facility; or
 - (g) A change in any of the services provided by an agency to provide nursing in the home,
- ➔ must submit an application for a new license to the Health Division and pay to the Health Division a fee of \$250.

2. An applicant who applies for a license pursuant to paragraph (c) of subsection 1 because of an increase in the number of beds in the facility must pay to the Health Division:

- (a) A fee of \$250; and
- (b) A fee for each additional bed as follows:
 - (1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities.....~~[\$184]~~ \$236
 - (2) ~~Except as otherwise provided in subparagraph (3), if~~ If the facility is a residential facility for groups184

(3) If the facility is a residential facility for groups and the fee for each bed in the facility is paid entirely with money from sources described in subsection 3 of NAC 449.016	100
(4) If the facility is a facility for the treatment of abuse of alcohol or drugs.....	{184} 190
{5} (4) If the facility is a facility for hospice care.....	{184} 352
{6} (5) If the facility is a home for individual residential care.....	{184} 266
{7} (6) If the facility is a facility for modified medical detoxification	{184} 494
{8} (7) If the facility is a hospital	{80} 147
{9} (8) If the facility is a rural hospital	{80} 83
{10} (9) If the facility is a skilled nursing facility.....	{60} 90
{11} (10) If the facility is an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	{90} 81
(11) <i>If the facility is a facility for the treatment of irreversible renal disease</i>	60
(12) <i>If the facility is a halfway house for recovering alcohol and drug abusers</i>	60
(13) <i>If the facility is a facility for transitional living for released offenders</i>	60

3. If the address of the home office of a home health agency has not changed, a holder of a license to operate a subunit agency or branch office of the home health agency who wishes or is

required pursuant to NAC 449.758 to modify his license to reflect a change in the address of the subunit agency or branch office of the home health agency must:

- (a) Submit an application for a new license to the Health Division; and
- (b) Pay to the Health Division a fee of \$250.

4. A fee paid pursuant to this section is nonrefundable.

5. As used in this section:

(a) "Administrator" means the person who is responsible for the daily management of a medical facility, facility for the dependent or program of hospice care.

(b) "Independent facility" has the meaning ascribed to it in NAC 449.9701.

(c) "Staging area" has the meaning ascribed to it in NAC 449.97018.

Sec. 5. NAC 449.147 is hereby amended to read as follows:

449.147 1. Facilities must serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the ~~{National Research Council,}~~ *Institute of Medicine of the* National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the client's attending or staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file for 90 days. Any substitution must be noted on the written menus so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients must:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that assures hot, palatable meals.

9. A qualified person must be used as a consultant on planning meals and serving food. Consultation each month is required. A qualified person may be a person meeting the requirements for registration with the Commission on Dietetic Registration as either a registered dietitian or a registered dietetic technician.

10. All facilities that contract with food management companies must comply with the applicable regulations of the Health Division as provided in chapter 446 of NAC.

Sec. 6. NAC 449.15351 is hereby amended to read as follows:

449.15351 1. Facilities shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances recommended by the Food and Nutrition Board of the ~~[National Research Council,]~~ *Institute of Medicine of the* National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the attending physician of the client or a staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~[Bureau of Health Protection Services of the]~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals.

9. A professional, qualified person must be used as a consultant on planning meals and serving food. At least 4 hours of consultation each month is required. A person is qualified only if he meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician.

10. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 7. NAC 449.154979 is hereby amended to read as follows:

449.154979 1. The kitchen in a facility and the equipment in the kitchen must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.

2. Perishable food must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen food must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Food must not be stored in any area in which cleaning or pest control products are stored.

4. A facility with more than 10 residents must:

(a) Comply with applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto; and

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division.

5. The equipment used for cooking and storing food in a facility with more than 10 residents must be inspected and approved by the ~~{Bureau of Health Protection Services of the}~~ Health Division and the state and local fire safety authorities.

Sec. 8. NAC 449.217 is hereby amended to read as follows:

449.217 1. The equipment in a kitchen of a residential facility and the size of the kitchen must be adequate for the number of residents in the facility. The kitchen and the equipment must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.

2. Perishable foods must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen foods must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Sufficient storage must be available for all food and equipment used for cooking and storing food. Food that is stored must be appropriately packaged.

4. The administrator of a residential facility shall ensure that there is at least a 2-day supply of fresh food and at least a 1-week supply of canned food in the facility at all times.

5. Pesticides and other toxic substances must not be stored in any area in which food, kitchen equipment, utensils or paper products are stored. Soaps, detergents, cleaning compounds and similar substances must not be stored in any area in which food is stored.

6. A residential facility with more than 10 residents shall:

(a) Comply with the standards prescribed in chapter 446 of NAC; and

(b) Obtain the necessary permits from the ~~{Bureau of}~~ Health ~~{Protection Services of the}~~ Division.

7. The equipment used for cooking and storing food and for washing dishes in a residential facility with more than 10 residents must be inspected and approved by the ~~{Bureau of}~~ Health ~~{Protection Services of the}~~ Division and the state and local fire safety authorities.

Sec. 9. NAC 449.27706 is hereby amended to read as follows:

449.27706 1. If the Bureau issues a placard to a residential facility that includes a grade of "B," the administrator may submit an application to the Bureau for a resurvey of the facility not later than 30 days after the facility receives the placard. The fee for an application for a resurvey is \$300 and must accompany the application. *If the cost to conduct a resurvey of the facility is more than \$300, the additional cost must be paid by the administrator to the Bureau not later than 30 days after the completion of the resurvey. If the cost to conduct a resurvey of the facility is less than \$300, a refund will be paid to the administrator by the Bureau not later than 30 days after the completion of the resurvey.*

2. If the Bureau issues a placard to a residential facility that includes a grade of "C" or "D," the administrator must submit an application to the Bureau for a resurvey of the facility not later than 30 days after the facility receives the placard. The fee for an application for a resurvey is \$500 and must accompany the application. *If the cost to conduct a resurvey of the facility is more than \$500, the additional cost must be paid by the administrator to the Bureau not later than 30 days after the completion of the resurvey. If the cost to conduct a resurvey of the facility is less than \$500, a refund will be paid to the administrator by the Bureau not later than 30 days after the completion of the resurvey.*

3. The Bureau may revoke the license of a residential facility that is required to submit an application for a resurvey pursuant to subsection 2 if the facility fails to submit the application in accordance with the provisions of that subsection.

4. As used in this section, “resurvey” has the meaning ascribed to it in NAC 449.99838.

Sec. 10. NAC 449.338 is hereby amended to read as follows:

449.338 1. A hospital shall provide for the general dietary needs of its patients, including the preparation of modified special diets.

2. Adequate space for the preparation and service of food must be provided. Equipment for the preparation and service of food must be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.

3. Well-ventilated food storage areas of adequate size must be provided.

4. Adequate space must be maintained to accommodate equipment, personnel and procedures necessary for the proper cleaning and sanitizing of dishes and other utensils.

5. Office or other suitable space must be provided for the dietitian and dietetic service supervisor.

6. In providing for the preparation and serving of food, a hospital shall:

(a) Comply with the standards prescribed in chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

Sec. 11. NAC 449.716 is hereby amended to read as follows:

449.716 1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a qualified dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine ~~of~~ *of the* National Academy of Sciences. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~[Bureau of Health Protection Services of the]~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is registered as a dietitian with the Commission on Dietetic Registration of the American Dietetic Association; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

Sec. 12. NAC 449.74359 is hereby amended to read as follows:

449.74359 1. Each facility shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast.

2. Additional food and between-meal nourishment must be provided to a patient when needed, based on an assessment of the medical condition of the patient.

3. Menus must be planned and followed to meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine ~~of~~ *of the* National Academy of Sciences.

4. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the attending physician of the patient or the medical director of the facility.

5. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

6. A person who meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician must be used as a consultant on planning meals and serving food. This person shall consult at least monthly with the staff of the facility.

7. The facility shall provide:

(a) Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner;

(b) Storage space for dry foods, refrigerated food and frozen food;

(c) Any special equipment, implements or utensils that are needed by a patient to assist the patient in eating;

(d) Dining space for ambulatory patients, staff and visitors that is separate from sleeping areas, food preparation areas and distribution areas;

(e) Tables and chairs in the dining space that are sturdy and cleanable; and

(f) In each kitchen area:

(1) Sinks for washing hands with blade-type faucets, soap and paper towels for drying hands; and

(2) A separate janitors' closet for the storage of housekeeping chemicals and supplies which contains a floor sink with backflow prevention.

8. A facility with more than 10 patients shall:

(a) Comply with all applicable provisions of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

9. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 13. NAC 449.74525 is hereby amended to read as follows:

449.74525 1. A facility for skilled nursing shall employ full time, part time or as a consultant, a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association. If a registered dietitian is not employed full time, the facility shall designate a person to serve as the director of food service who receives frequently scheduled consultations from a registered dietitian.

2. A facility shall employ an adequate number of qualified and competent personnel to provide food service to the patients in the facility.

3. Menus must be planned in advance and followed to meet the nutritional needs of the patients in the facility in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

4. A facility shall provide to each patient in the facility:

(a) Food that is prepared to conserve the nutritional value and flavor of the food.

(b) Food that is nourishing, palatable, attractive and served at the proper temperature.

(c) A well-balanced diet that meets the daily nutritional and special dietary needs of the patient.

(d) Who refuses the food that is regularly served by the facility, a substitute of similar nutritional value.

5. A therapeutic diet served to a patient by a facility must be prescribed by the attending physician of the patient.

6. A facility shall serve to each patient in the facility at least three meals daily, at such times as are comparable to regular mealtimes within the community in which the facility is located. A snack must be offered to each patient daily at bedtime. Except as otherwise provided in this subsection, breakfast must be served not more than 14 hours after the previous evening meal. If a nourishing snack is served at bedtime, breakfast may be served not more than 16 hours after the previous evening meal if approved by a group of patients organized pursuant to NAC 449.74499.

7. A facility shall provide special eating equipment and utensils to each patient who requires them.

8. A facility shall:

(a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto and obtain such permits as are necessary from the ~~{Bureau of Health Protection Services of the}~~ Health Division for the preparation and service of food;

(b) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection;

(c) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (b) for at least 1 year after the date of the corrective action;

(d) Procure food from sources that are approved or considered satisfactory by federal, state and local authorities;

(e) Store, prepare and serve food under sanitary conditions; and

(f) Dispose of refuse and garbage properly.

Sec. 14. NAC 449.9937 is hereby amended to read as follows:

449.9937 1. An ambulatory surgical center may operate an extended recovery unit.

2. An extended recovery unit must:

(a) Be located in an area of the center that is separate from the other operations of the center;

(b) Provide audio and visual privacy for each patient in the unit;

(c) Be supervised by at least one physician who is recommended for the position by the members of the medical staff and approved by the governing body;

(d) Have at least one physician on the premises or immediately available by telephone at all times when there is a patient in the unit;

(e) Except as otherwise provided in paragraph (f), have at least one nurse who is trained in advanced cardiac life support on duty for every two patients in the unit;

(f) Have at least two nurses who are trained in advanced cardiac life support on duty at all times when there is a patient in the unit; and

(g) Be equipped with:

(1) A system for making emergency calls;

(2) Oxygen;

(3) A cardiac defibrillator;

(4) A manual breathing bag;

(5) Suction equipment; and

(6) Such other emergency equipment as is needed to provide care to patients in the unit.

3. A patient must be admitted and discharged from an extended recovery unit only upon the order of the physician of record. If a patient is admitted to the unit, the time he remains in the unit for treatment, when added to the time he remains in any other area of the ambulatory surgical center for treatment, may not exceed 23 hours and 59 minutes.

4. The center shall adopt policies and procedures for the extended recovery unit that include, without limitation:

- (a) Clinical criteria for determining a patient's eligibility for admission into the unit;
- (b) Clinical criteria for determining a patient's eligibility for being discharged from the unit;
- (c) Procedures for providing emergency services; and
- (d) Procedures for transferring a patient in need of other health care services.

5. An ambulatory surgical center shall provide food to meet the needs of patients in an extended recovery unit. A patient on a special diet must be served food that conforms to the patient's prescribed diet. If the food is prepared by the center, the center shall:

- (a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto; and
- (b) Obtain such permits as are necessary from the ~~the Bureau of Health Protection Services of~~ the Health Division to prepare the food.

Sec. 15. 1. This section and sections 2 to 14, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Section 1 of this regulation becomes effective on July 1, 2011.

SMALL BUSINESS IMPACT STATEMENT
(Nevada Revised Statutes 233B.0608)

PROPOSED AMENDMENTS TO NAC 449

The Bureau of Health Care Quality and Compliance (HCQC) has received feedback from small businesses regarding the proposed amendments to Nevada Administrative Code (NAC) 449. Respondents indicate the proposed amendments may impose a direct and significant economic burden upon small businesses, and may restrict the formation, operation and expansion of small businesses in Nevada. A small business is defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." This small business impact statement complies with the requirements of NRS 233B.0609.

Background

The Bureau of Health Care Quality and Compliance protects the safety and welfare of the public and promotes quality health care through licensing, regulation, enforcement and education. Bureau operations are funded primarily by license fees, and no State tax dollars. A 2009 example of our bureau mission in action was our investigation and closing of an unlicensed ambulatory surgery center for performing breast augmentation surgeries and harming and hospitalizing patients. Other headlines of Bureau actions can be viewed at our website, <http://health.nv.gov/HCQC.htm>. In 2009, the Nevada State Legislature authorized our budget and mandated that the Bureau increase our surveyor staffing levels to ensure our health protection mission was fulfilled. Therefore, our license fees for most facility types must increase. It has been over six (6) years since the Bureau significantly raised fees. If fees are not raised, Bureau operations will have to be scaled back significantly, statutory mandates will not be met, and there will be no assurance that the health of the public, and patients and residents of health facilities, will be protected.

Health Facility Fees were last revised in 2003. The 2003 fee revision was designed to cover the costs resulting from inspections provided during initial and periodic surveys in compliance with the periodicity schedule that was in effect when the rates were reviewed and do not reflect current conditions.

The 2009 Legislative Session required that the periodicity schedule for surveys be revised to ensure more frequent inspections. Many inspections were required to be completed annually while the frequency rate for the remaining inspections was changed from once every six years to once every 18 months. Consequently, the cost of doing the inspections has increased by at least 400% in the next 6-year period when compared to previous time periods.

Since the 2003 rate revision, the scope of work performed by HCQC has increased to cover additional responsibilities that are not adequately funded in our current workload. One example of an under-funded service is review of quality control within licensed facilities. This is a service that is required as a result of public outrage regarding the lack of proper infection control practices in Ambulatory Surgery Centers which received a great deal of media attention in Nevada.

1. A description of the manner in which comment was solicited from affected small businesses, a summary and an explanation of the manner in which other interested parties may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), HCQC has consulted with owners and officers of all small businesses that are likely to be affected by the proposed regulation via informal meetings, telephone and written correspondence.

Comment was solicited from the regulated community in that over 1,074 licensed facilities were sent a notice of the regulation changes and the small business impact questionnaire prior to February 24, 2010. Notice of proposed changes were sent to all Bureau offices, main county libraries and facilities on the Health Division listing for posting of proposed regulations. All the above were notified by direct mailing of scheduled workshops. Notice of proposed workshop was published the week of February 22, 2010 in the Reno Gazette-Journal and the Las Vegas Review-Journal, and posted on the HCQC website, www.health.nv.gov/hcqc.htm. Additionally, all interested persons who contacted HCQC offices were provided with copies of the proposed regulations.

Summary of Response

Ten (10) telephone calls were received relating to proposed changes to NAC 449.

Over 1,074 small business impact questionnaires were distributed. Only twenty-two (22) of the 1,074 questionnaires (2%) were returned. Eighteen of the 22 respondents (82%) stated the proposed regulations will have an adverse economic effect on their business. Eighteen of the 22 respondents (82%) stated the proposed regulations will not have a beneficial effect on their business. Sixteen of the 22 respondents (73%) stated the proposed regulations will have an indirect adverse effect on their business. Twenty-one of the 22 respondents (95%) indicated there will be no indirect beneficial effect on their business.

The majority of the comments were negative towards the proposed regulations. One of the few positive comments was that the survey process helps maintain high industry standards.

Summaries of these questionnaires are available from the office of the Bureau of Health Care Quality and Compliance, 1550 E. College Parkway, Suite 158, Carson City, Nevada 89706, (775) 687-4475.

2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects.

The majority of the feedback from the questionnaires indicates that the increased fees will have an adverse economic affect. The beneficial economic effect of the proposed regulations is that the medical costs of residents and patients in licensed facilities will be minimized as far as they depend on safe conditions in health facilities and medical procedures.

3. A description of the methods the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 (2) (b) (1), the agency shall consider simplifying the proposed regulation.

No new regulations were proposed that would increase facility or staffing requirements of the health facilities. Only fees were proposed for increase at this time, and only to a level to cover the cost of operating the program.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (2), the agency shall consider establishing different standards of compliance for a small business.

Several fee categories for smaller businesses remain unchanged and their fees remain at lower levels than larger facilities, as less time is required to survey such facilities. Most of the fees categories include a bed fee. Therefore, the more beds a facility has, the higher their license fee becomes.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608(2) (b) (3), the agency shall consider modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

The proposed changes to NAC 449 do not include changes to fines or sanctions.

The proposed fees are equal to or less than surrounding states that perform licensing and survey work similar to HCQC and are also 100% fee funded like Nevada.

4. The estimated cost to the agency for enforcement of proposed regulations.

The operations of HCQC that the proposed fees support are 100% funded by license fees. The expenditures of these operations total approximately \$5.2 million per year.

5. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed increased fees will provide a total of \$5.2 million to support the survey and investigative operations of State-licensed health facilities. These funds will be utilized by HCQC to protect the safety and welfare of the public and promote quality health care through licensing, regulation, enforcement and education of medical and health facilities.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulations do not pertain to duplicate or federal, state or local standards regulating the same activity.

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R060-10

July 8, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 5-8 and 10-15, NRS 449.037; §2, NRS 439.150, 439.200, 449.0305, 449.037, 449.038 and 449.050; §3, NRS 439.150, 439.200, 449.037, 449.050 and 449.249; §4, NRS 449.0305, 449.037 and 449.050; §9, NRS 439.150, 439.200 and 449.037.

A REGULATION relating to public health; requiring each institution of the Department of Corrections to pay certain fees to the Health Division of the Department of Health and Human Services under certain circumstances; revising certain fees for licensure; revising provisions regarding resurvey of residential facilities; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:

1. To the extent that money is appropriated for this purpose, each institution of the Department of Corrections shall pay a fee of \$3,266 each year to the Health Division for the purpose of enabling the Health Division to carry out its duties set forth in NRS 209.382, 444.330 and 446.885.

2. As used in this section, "institution" has the meaning ascribed to it in NRS 209.071.

Sec. 2. NAC 449.013 is hereby amended to read as follows:

449.013 1. Except as otherwise provided in ~~{subsection 4 and}~~ NAC 449.0168, an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the Health Division the following nonrefundable fees:

(a) An ambulatory surgical center.....	[\$3,570] \$10,320
(b) {A facility for the treatment of irreversible renal disease.....}	2,748
—(e)} A home office or subunit agency of a home health agency	[3,034] 6,584
{(d)} (c) A branch office of a home health agency	[2,000] 5,358
{(e)} (d) A rural clinic.....	[2,160] 4,152
{(f)} (e) An obstetric center	1,564
{(g)} (f) A program of hospice care.....	[2,106] 7,088
{(h)} (g) An independent center for emergency medical care	[2,950] 4,060
{(i)} (h) A nursing pool	[4,272] 4,602
{(j)} (i) A facility for treatment with narcotics	[2,482] 5,046
{(k)} (j) A medication unit.....	1,200
{(l)} (k) A referral agency.....	[2,000] 2,708
{(m)} A halfway house for recovering alcohol and drug abusers.....	2,020
—(n)} (l) A facility for refractive surgery	[7,556] 6,700
{(e)} (m) A mobile unit	2,090
{(p)} A facility for transitional living for released offenders.....	2,020
—(q)} (n) An agency to provide personal care services in the home	[1374] 6,476

2. ~~{Except as otherwise provided in subsection 4, an}~~ **An** applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

(a) An ambulatory surgical center	[\$1,785] \$5,160
(b) {A facility for the treatment of irreversible renal disease	1,374
—(e)} A home office or subunit agency of a home health agency	[1,517] 3,292

{(d)} (c) A branch office of a home health agency	{1,000} 2,679
{(e)} (d) A rural clinic	{1,080} 2,076
{(f)} (e) An obstetric center.....	782
{(g)} (f) A program of hospice care	{1,053} 3,544
{(h)} (g) An independent center for emergency medical care	{1,475} 2,030
{(i)} (h) A nursing pool.....	{2,136} 2,301
{(j)} (i) A facility for treatment with narcotics	{1,241} 2,523
{(k)} (j) A medication unit	600
{(l)} (k) A referral agency	{1,000} 1,354
{(m)} A halfway house for recovering alcohol and drug abusers	1,010
—(n)} (l) A facility for refractive surgery	{3,912} 3,350
{(o)} (m) A mobile unit.....	1,045
{(p)} A facility for transitional living for released offenders.....	1,010
—(q)} (n) An agency to provide personal care services in the home.....	{687} 3,238

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

4. ~~{Pursuant to NRS 449.050, if an application for a license to operate a facility for transitional living for released offenders or the renewal of such a license is denied, any amount of a fee paid pursuant to paragraph (p) of subsection 1 or paragraph (p) of subsection 2 that exceeds the expenses and costs incurred by the Health Division must be refunded to the~~

~~applicant.}~~ *The Health Division may charge and collect a fee from any licensee who is involved in a complaint submitted to the Health Division by a consumer to recover the costs of investigating the complaint after the investigation is completed and the complaint is substantiated. The fee will be based upon the hourly rate established for each surveyor of health facilities as determined by the budget of the Health Division.*

5. *As used in this section, "substantiated" means supported or established by evidence or proof.*

Sec. 3. NAC 449.016 is hereby amended to read as follows:

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	12,200 \$2,400	60 \$90
(b) A hospital, other than a rural hospital	10,000 14,606	60 110
(c) A rural hospital	1,500 9,530	60 62
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	1,564 1,782	184 236

	Fee per facility	Fee per bed in the facility
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities	{1,200} 946	{90} 72
(f) {Except as otherwise provided in subsection 3, a} A residential facility for groups.....	{2,400} 2,386	184
(g) A facility for the treatment of abuse of alcohol or drugs.....	782	{184} 190
(h) A facility for hospice care	{1,564} 3,988	{184} 352
(i) A home for individual residential care.....	{1,764} 3,198	{184} 266
(j) A facility for modified medical detoxification.....	{782} 9,960	{184} 494
(k) A community triage center	{782} 782	{184} 136
(l) <i>A facility for the treatment of irreversible renal disease.....</i>	<i>4,178</i>	<i>120</i>
(m) <i>A halfway house for recovering alcohol and drug abusers.....</i>	<i>2,800</i>	<i>368</i>
(n) <i>A facility for transitional living for released offenders.....</i>	<i>3,990</i>	<i>146</i>

2. An applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	{ \$1,100 } \$1,200	{ \$30 } \$45
(b) A hospital, other than a rural hospital	{ 5,000 } 7,303	{ 30 } 55
(c) A rural hospital	{ 750 } 4,765	{ 30 } 31
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	{ 782 } 891	{ 92 } 118
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	{ 600 } 473	{ 40 } 36
(f) { Except as otherwise provided in subsection 4, a } A residential facility for groups { which has 11 beds or more }	1,182 } 1,193	92
{ (g) Except as otherwise provided in subsection 5, a } residential facility for groups which has less than 11 beds.....	1,085	92
{ (h) } (g) A facility for the treatment of abuse of alcohol or drugs.....	391	{ 92 } 95
{ (i) } (h) A facility for hospice care.....	{ 782 } 1,994	{ 92 } 176
{ (j) } (i) A home for individual residential care.....	{ 500 } 1,599	{ 92 } 133
{ (k) } (j) A facility for modified medical detoxification	{ 391 } 4,980	{ 92 } 247
{ (l) } (k) A community triage center.....	391	{ 92 }

	Fee per facility	bed in the facility
<i>(l) A facility for the treatment of irreversible renal disease.....</i>	<i>2,089</i>	<i>60</i>
<i>(m) A halfway house for recovering alcohol and drug abusers.....</i>	<i>1,400</i>	<i>184</i>
<i>(n) A facility for transitional living for released offenders.....</i>	<i>1,995</i>	<i>73</i>

3. ~~{An applicant for a license for a residential facility for groups shall pay a fee of \$100 for each bed in the facility which is paid entirely with money from:~~

- ~~—(a) The Supplemental Security Income Program as defined in NRS 422.053;~~
- ~~—(b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or~~
- ~~—(c) A program for group care of adults established by a county.~~

~~4. An applicant for the renewal of a license for a residential facility for groups shall pay a fee of \$35 for each bed in the facility which is paid entirely with money from:~~

- ~~—(a) The Supplemental Security Income Program as defined in NRS 422.053;~~
- ~~—(b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or~~
- ~~—(c) A program for group care of adults established by a county.~~

~~5. An applicant for the renewal of a license for a residential facility for groups which has less than 11 beds who attests that, during the following licensure period, at least 75 percent of~~

~~those beds will be paid for entirely with money from the sources described in subsection 4 shall pay a fee of \$500 plus:~~

~~—(a) For each bed that will be paid for entirely with money from the sources described in subsection 4, a fee of \$35 in accordance with that subsection; and~~

~~—(b) For each remaining bed, a fee of \$92.~~

—6.} An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

4. Pursuant to NRS 449.050, if an application for a license to operate a facility for transitional living for released offenders or the renewal of such a license is denied, any amount of a fee paid pursuant to paragraph (n) of subsection 1 or paragraph (n) of subsection 2 that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

5. The Health Division may charge and collect a fee from any licensee who is involved in a complaint submitted to the Health Division by a consumer to recover the costs of investigating the complaint after the investigation is completed and the complaint is substantiated. The fee will be based upon the hourly rate established for each surveyor of health facilities as determined by the budget of the Health Division.

6. As used in this section, "substantiated" means supported or established by evidence or proof.

Sec. 4. NAC 449.0168 is hereby amended to read as follows:

449.0168 1. Except as otherwise provided in subsection 2, a holder of a license to operate a medical facility, facility for the dependent, program of hospice care or referral agency who wishes or is required pursuant to NAC 449.190, 449.307, 449.7473 or 449.758 to modify his license to reflect:

- (a) A change in the name of the facility, program or agency;
 - (b) A change of the administrator of the facility, program or agency;
 - (c) A change in the number of beds in the facility;
 - (d) A change in the type of facility licensed or the addition of another type of facility to be licensed;
 - (e) A change in the category of residents who may reside at the facility;
 - (f) A change in the designation of a staging area for a mobile unit or, if the mobile unit is operated by an independent facility, a change in the address of the independent facility; or
 - (g) A change in any of the services provided by an agency to provide nursing in the home,
- ➔ must submit an application for a new license to the Health Division and pay to the Health Division a fee of \$250.

2. An applicant who applies for a license pursuant to paragraph (c) of subsection 1 because of an increase in the number of beds in the facility must pay to the Health Division:

- (a) A fee of \$250; and
- (b) A fee for each additional bed as follows:
 - (1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities.....~~[\$184]~~ **\$236**
 - (2) ~~[Except as otherwise provided in subparagraph (3), if]~~ **If** the facility is a residential facility for groups184

(3) If the facility is a residential facility for groups and the fee for each bed in the facility is paid entirely with money from sources described in subsection 3 of NAC 449.016	100
(4) If the facility is a facility for the treatment of abuse of alcohol or drugs	{184} 190
{5} (4) If the facility is a facility for hospice care	{184} 352
{6} (5) If the facility is a home for individual residential care	{184} 266
{7} (6) If the facility is a facility for modified medical detoxification	{184} 494
{8} (7) If the facility is a hospital	{80} 147
{9} (8) If the facility is a rural hospital	{80} 83
{10} (9) If the facility is a skilled nursing facility	{60} 90
{11} (10) If the facility is an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities	{90} 81
(11) <i>If the facility is a facility for the treatment of irreversible renal disease</i>	60
(12) <i>If the facility is a halfway house for recovering alcohol and drug abusers</i>	60
(13) <i>If the facility is a facility for transitional living for released offenders</i>	60

3. If the address of the home office of a home health agency has not changed, a holder of a license to operate a subunit agency or branch office of the home health agency who wishes or is

required pursuant to NAC 449.758 to modify his license to reflect a change in the address of the subunit agency or branch office of the home health agency must:

- (a) Submit an application for a new license to the Health Division; and
- (b) Pay to the Health Division a fee of \$250.

4. A fee paid pursuant to this section is nonrefundable.

5. As used in this section:

(a) "Administrator" means the person who is responsible for the daily management of a medical facility, facility for the dependent or program of hospice care.

(b) "Independent facility" has the meaning ascribed to it in NAC 449.9701.

(c) "Staging area" has the meaning ascribed to it in NAC 449.97018.

Sec. 5. NAC 449.147 is hereby amended to read as follows:

449.147 1. Facilities must serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the ~~[National Research Council,]~~ *Institute of Medicine of the* National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the client's attending or staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file for 90 days. Any substitution must be noted on the written menus so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients must:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that assures hot, palatable meals.

9. A qualified person must be used as a consultant on planning meals and serving food. Consultation each month is required. A qualified person may be a person meeting the requirements for registration with the Commission on Dietetic Registration as either a registered dietitian or a registered dietetic technician.

10. All facilities that contract with food management companies must comply with the applicable regulations of the Health Division as provided in chapter 446 of NAC.

Sec. 6. NAC 449.15351 is hereby amended to read as follows:

449.15351 1. Facilities shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances recommended by the Food and Nutrition Board of the ~~[National Research Council,]~~ *Institute of Medicine of the* National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the attending physician of the client or a staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~[Bureau of Health Protection Services of the]~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals.

9. A professional, qualified person must be used as a consultant on planning meals and serving food. At least 4 hours of consultation each month is required. A person is qualified only if he meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician.

10. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 7. NAC 449.154979 is hereby amended to read as follows:

449.154979 1. The kitchen in a facility and the equipment in the kitchen must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.

2. Perishable food must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen food must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Food must not be stored in any area in which cleaning or pest control products are stored.

4. A facility with more than 10 residents must:

(a) Comply with applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto; and

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division.

5. The equipment used for cooking and storing food in a facility with more than 10 residents must be inspected and approved by the ~~{Bureau of Health Protection Services of the}~~ Health Division and the state and local fire safety authorities.

Sec. 8. NAC 449.217 is hereby amended to read as follows:

449.217 1. The equipment in a kitchen of a residential facility and the size of the kitchen must be adequate for the number of residents in the facility. The kitchen and the equipment must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.

2. Perishable foods must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen foods must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Sufficient storage must be available for all food and equipment used for cooking and storing food. Food that is stored must be appropriately packaged.

4. The administrator of a residential facility shall ensure that there is at least a 2-day supply of fresh food and at least a 1-week supply of canned food in the facility at all times.

5. Pesticides and other toxic substances must not be stored in any area in which food, kitchen equipment, utensils or paper products are stored. Soaps, detergents, cleaning compounds and similar substances must not be stored in any area in which food is stored.

6. A residential facility with more than 10 residents shall:

(a) Comply with the standards prescribed in chapter 446 of NAC; and

(b) Obtain the necessary permits from the ~~{Bureau of}~~ Health ~~{Protection Services of the}~~ Division.

7. The equipment used for cooking and storing food and for washing dishes in a residential facility with more than 10 residents must be inspected and approved by the ~~{Bureau of}~~ Health ~~{Protection Services of the}~~ Division and the state and local fire safety authorities.

Sec. 9. NAC 449.27706 is hereby amended to read as follows:

449.27706 1. If the Bureau issues a placard to a residential facility that includes a grade of "B," the administrator may submit an application to the Bureau for a resurvey of the facility not later than 30 days after the facility receives the placard. The fee for an application for a resurvey is \$300 and must accompany the application. *If the cost to conduct a resurvey of the facility is more than \$300, the additional cost must be paid by the administrator to the Bureau not later than 30 days after the completion of the resurvey. If the cost to conduct a resurvey of the facility is less than \$300, a refund will be paid to the administrator by the Bureau not later than 30 days after the completion of the resurvey.*

2. If the Bureau issues a placard to a residential facility that includes a grade of "C" or "D," the administrator must submit an application to the Bureau for a resurvey of the facility not later than 30 days after the facility receives the placard. The fee for an application for a resurvey is \$500 and must accompany the application. *If the cost to conduct a resurvey of the facility is more than \$500, the additional cost must be paid by the administrator to the Bureau not later than 30 days after the completion of the resurvey. If the cost to conduct a resurvey of the facility is less than \$500, a refund will be paid to the administrator by the Bureau not later than 30 days after the completion of the resurvey.*

3. The Bureau may revoke the license of a residential facility that is required to submit an application for a resurvey pursuant to subsection 2 if the facility fails to submit the application in accordance with the provisions of that subsection.

4. As used in this section, “resurvey” has the meaning ascribed to it in NAC 449.99838.

Sec. 10. NAC 449.338 is hereby amended to read as follows:

449.338 1. A hospital shall provide for the general dietary needs of its patients, including the preparation of modified special diets.

2. Adequate space for the preparation and service of food must be provided. Equipment for the preparation and service of food must be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.

3. Well-ventilated food storage areas of adequate size must be provided.

4. Adequate space must be maintained to accommodate equipment, personnel and procedures necessary for the proper cleaning and sanitizing of dishes and other utensils.

5. Office or other suitable space must be provided for the dietitian and dietetic service supervisor.

6. In providing for the preparation and serving of food, a hospital shall:

(a) Comply with the standards prescribed in chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

Sec. 11. NAC 449.716 is hereby amended to read as follows:

449.716 1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a qualified dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine ~~of~~ *of the* National Academy of Sciences. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is registered as a dietitian with the Commission on Dietetic Registration of the American Dietetic Association; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

Sec. 12. NAC 449.74359 is hereby amended to read as follows:

449.74359 1. Each facility shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast.

2. Additional food and between-meal nourishment must be provided to a patient when needed, based on an assessment of the medical condition of the patient.

3. Menus must be planned and followed to meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine ~~of~~ *of the* National Academy of Sciences.

4. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the attending physician of the patient or the medical director of the facility.

5. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

6. A person who meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician must be used as a consultant on planning meals and serving food. This person shall consult at least monthly with the staff of the facility.

7. The facility shall provide:

(a) Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner;

(b) Storage space for dry foods, refrigerated food and frozen food;

(c) Any special equipment, implements or utensils that are needed by a patient to assist the patient in eating;

(d) Dining space for ambulatory patients, staff and visitors that is separate from sleeping areas, food preparation areas and distribution areas;

(e) Tables and chairs in the dining space that are sturdy and cleanable; and

(f) In each kitchen area:

(1) Sinks for washing hands with blade-type faucets, soap and paper towels for drying hands; and

(2) A separate janitors' closet for the storage of housekeeping chemicals and supplies which contains a floor sink with backflow prevention.

8. A facility with more than 10 patients shall:

(a) Comply with all applicable provisions of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the ~~{Bureau of Health Protection Services of the}~~ Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

9. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 13. NAC 449.74525 is hereby amended to read as follows:

449.74525 1. A facility for skilled nursing shall employ full time, part time or as a consultant, a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association. If a registered dietitian is not employed full time, the facility shall designate a person to serve as the director of food service who receives frequently scheduled consultations from a registered dietitian.

2. A facility shall employ an adequate number of qualified and competent personnel to provide food service to the patients in the facility.

3. Menus must be planned in advance and followed to meet the nutritional needs of the patients in the facility in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

4. A facility shall provide to each patient in the facility:

(a) Food that is prepared to conserve the nutritional value and flavor of the food.

(b) Food that is nourishing, palatable, attractive and served at the proper temperature.

(c) A well-balanced diet that meets the daily nutritional and special dietary needs of the patient.

(d) Who refuses the food that is regularly served by the facility, a substitute of similar nutritional value.

5. A therapeutic diet served to a patient by a facility must be prescribed by the attending physician of the patient.

6. A facility shall serve to each patient in the facility at least three meals daily, at such times as are comparable to regular mealtimes within the community in which the facility is located. A snack must be offered to each patient daily at bedtime. Except as otherwise provided in this subsection, breakfast must be served not more than 14 hours after the previous evening meal. If a nourishing snack is served at bedtime, breakfast may be served not more than 16 hours after the previous evening meal if approved by a group of patients organized pursuant to NAC 449.74499.

7. A facility shall provide special eating equipment and utensils to each patient who requires them.

8. A facility shall:

(a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto and obtain such permits as are necessary from the ~~Bureau of Health Protection Services of the~~ Health Division for the preparation and service of food;

(b) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection;

(c) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (b) for at least 1 year after the date of the corrective action;

(d) Procure food from sources that are approved or considered satisfactory by federal, state and local authorities;

(e) Store, prepare and serve food under sanitary conditions; and

(f) Dispose of refuse and garbage properly.

Sec. 14. NAC 449.9937 is hereby amended to read as follows:

449.9937 1. An ambulatory surgical center may operate an extended recovery unit.

2. An extended recovery unit must:

(a) Be located in an area of the center that is separate from the other operations of the center;

(b) Provide audio and visual privacy for each patient in the unit;

(c) Be supervised by at least one physician who is recommended for the position by the members of the medical staff and approved by the governing body;

(d) Have at least one physician on the premises or immediately available by telephone at all times when there is a patient in the unit;

(e) Except as otherwise provided in paragraph (f), have at least one nurse who is trained in advanced cardiac life support on duty for every two patients in the unit;

(f) Have at least two nurses who are trained in advanced cardiac life support on duty at all times when there is a patient in the unit; and

(g) Be equipped with:

(1) A system for making emergency calls;

(2) Oxygen;

(3) A cardiac defibrillator;

(4) A manual breathing bag;

(5) Suction equipment; and

(6) Such other emergency equipment as is needed to provide care to patients in the unit.

3. A patient must be admitted and discharged from an extended recovery unit only upon the order of the physician of record. If a patient is admitted to the unit, the time he remains in the unit for treatment, when added to the time he remains in any other area of the ambulatory surgical center for treatment, may not exceed 23 hours and 59 minutes.

4. The center shall adopt policies and procedures for the extended recovery unit that include, without limitation:

- (a) Clinical criteria for determining a patient's eligibility for admission into the unit;
- (b) Clinical criteria for determining a patient's eligibility for being discharged from the unit;
- (c) Procedures for providing emergency services; and
- (d) Procedures for transferring a patient in need of other health care services.

5. An ambulatory surgical center shall provide food to meet the needs of patients in an extended recovery unit. A patient on a special diet must be served food that conforms to the patient's prescribed diet. If the food is prepared by the center, the center shall:

(a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto; and

(b) Obtain such permits as are necessary from the ~~{Bureau of Health Protection Services of the}~~ Health Division to prepare the food.

Sec. 15. 1. This section and sections 2 to 14, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Section 1 of this regulation becomes effective on July 1, 2011.

SMALL BUSINESS IMPACT STATEMENT
(Nevada Revised Statutes 233B.0608)

PROPOSED AMENDMENTS TO NAC 449

The Bureau of Health Care Quality and Compliance (HCQC) has received feedback from small businesses regarding the proposed amendments to Nevada Administrative Code (NAC) 449. Respondents indicate the proposed amendments may impose a direct and significant economic burden upon small businesses, and may restrict the formation, operation and expansion of small businesses in Nevada. A small business is defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." This small business impact statement complies with the requirements of NRS 233B.0609.

Background

The Bureau of Health Care Quality and Compliance protects the safety and welfare of the public and promotes quality health care through licensing, regulation, enforcement and education. Bureau operations are funded primarily by license fees, and no State tax dollars. A 2009 example of our bureau mission in action was our investigation and closing of an unlicensed ambulatory surgery center for performing breast augmentation surgeries and harming and hospitalizing patients. Other headlines of Bureau actions can be viewed at our website, <http://health.nv.gov/HCQC.htm>. In 2009, the Nevada State Legislature authorized our budget and mandated that the Bureau increase our surveyor staffing levels to ensure our health protection mission was fulfilled. Therefore, our license fees for most facility types must increase. It has been over six (6) years since the Bureau significantly raised fees. If fees are not raised, Bureau operations will have to be scaled back significantly, statutory mandates will not be met, and there will be no assurance that the health of the public, and patients and residents of health facilities, will be protected.

Health Facility Fees were last revised in 2003. The 2003 fee revision was designed to cover the costs resulting from inspections provided during initial and periodic surveys in compliance with the periodicity schedule that was in effect when the rates were reviewed and do not reflect current conditions.

The 2009 Legislative Session required that the periodicity schedule for surveys be revised to ensure more frequent inspections. Many inspections were required to be completed annually while the frequency rate for the remaining inspections was changed from once every six years to once every 18 months. Consequently, the cost of doing the inspections has increased by at least 400% in the next 6-year period when compared to previous time periods.

Since the 2003 rate revision, the scope of work performed by HCQC has increased to cover additional responsibilities that are not adequately funded in our current workload. One example of an under-funded service is review of quality control within licensed facilities. This is a service that is required as a result of public outrage regarding the lack of proper infection control practices in Ambulatory Surgery Centers which received a great deal of media attention in Nevada.

1. A description of the manner in which comment was solicited from affected small businesses, a summary and an explanation of the manner in which other interested parties may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), HCQC has consulted with owners and officers of all small businesses that are likely to be affected by the proposed regulation via informal meetings, telephone and written correspondence.

Comment was solicited from the regulated community in that over 1,074 licensed facilities were sent a notice of the regulation changes and the small business impact questionnaire prior to February 24, 2010. Notice of proposed changes were sent to all Bureau offices, main county libraries and facilities on the Health Division listing for posting of proposed regulations. All the above were notified by direct mailing of scheduled workshops. Notice of proposed workshop was published the week of February 22, 2010 in the Reno Gazette-Journal and the Las Vegas Review-Journal, and posted on the HCQC website, www.health.nv.gov/hcqc.htm. Additionally, all interested persons who contacted HCQC offices were provided with copies of the proposed regulations.

Summary of Response

Ten (10) telephone calls were received relating to proposed changes to NAC 449.

Over 1,074 small business impact questionnaires were distributed. Only twenty-two (22) of the 1,074 questionnaires (2%) were returned. Eighteen of the 22 respondents (82%) stated the proposed regulations will have an adverse economic effect on their business. Eighteen of the 22 respondents (82%) stated the proposed regulations will not have a beneficial effect on their business. Sixteen of the 22 respondents (73%) stated the proposed regulations will have an indirect adverse effect on their business. Twenty-one of the 22 respondents (95%) indicated there will be no indirect beneficial effect on their business.

The majority of the comments were negative towards the proposed regulations. One of the few positive comments was that the survey process helps maintain high industry standards.

Summaries of these questionnaires are available from the office of the Bureau of Health Care Quality and Compliance, 1550 E. College Parkway, Suite 158, Carson City, Nevada 89706, (775) 687-4475.

2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects.

The majority of the feedback from the questionnaires indicates that the increased fees will have an adverse economic affect. The beneficial economic effect of the proposed regulations is that the medical costs of residents and patients in licensed facilities will be minimized as far as they depend on safe conditions in health facilities and medical procedures.

3. A description of the methods the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 (2) (b) (1), the agency shall consider simplifying the proposed regulation.

No new regulations were proposed that would increase facility or staffing requirements of the health facilities. Only fees were proposed for increase at this time, and only to a level to cover the cost of operating the program.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (2), the agency shall consider establishing different standards of compliance for a small business.

Several fee categories for smaller businesses remain unchanged and their fees remain at lower levels than larger facilities, as less time is required to survey such facilities. Most of the fees categories include a bed fee. Therefore, the more beds a facility has, the higher their license fee becomes.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608(2) (b) (3), the agency shall consider modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

The proposed changes to NAC 449 do not include changes to fines or sanctions.

The proposed fees are equal to or less than surrounding states that perform licensing and survey work similar to HCQC and are also 100% fee funded like Nevada.

4. The estimated cost to the agency for enforcement of proposed regulations.

The operations of HCQC that the proposed fees support are 100% funded by license fees. The expenditures of these operations total approximately \$5.2 million per year.

5. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed increased fees will provide a total of \$5.2 million to support the survey and investigative operations of State-licensed health facilities. These funds will be utilized by HCQC to protect the safety and welfare of the public and promote quality health care through licensing, regulation, enforcement and education of medical and health facilities.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulations do not pertain to duplicate or federal, state or local standards regulating the same activity.